

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on Proprietary Education
(Amendment)

791 KAR 1:010. Applications, permits, and renewals.

RELATES TO: KRS 165A.330, 165A.350(3), 165A.360(1), (2), (Z), (9), 367.110-367.360

STATUTORY AUTHORITY: KRS 165A.340(6), 165A.350(3), 165A.360(2), 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.340(6) and 165A.400 authorize the Kentucky Commission on Proprietary Education to promulgate administrative regulations to administer and enforce the provisions of KRS Chapter 165A. KRS 165A.350(3) and 165A.360(2) require the commission to establish forms. This administrative regulation establishes the application requirements and incorporates forms by reference.

Section 1. Initial Licensure Application and Student Protection Fund Contribution for Schools.

- (1) A school residing in and doing business in Kentucky shall submit:
 - (a) Form PE-15, Application for Resident School; and
 - (b) The initial contribution to the student protection fund required by 791 KAR 1:025, Section 2.
- (2) A school not residing in Kentucky, but seeking to do business in Kentucky, shall submit:
 - (a) Form PE-16, Application for Non-Resident School; and
 - (b) The initial contribution to the student protection fund required by 791 KAR 1:025, Section 2.

Section 2. Annual Renewal License Application for Schools.

- (1) The annual renewal license application for a school residing in and doing business in Kentucky shall be the Form PE-17, Application for License Renewal Resident School.
- (2) The annual renewal license application for a school not residing in Kentucky, but doing business in Kentucky, shall be the Form PE-18, Application for License Renewal Non-Resident School.
- (3) Each school shall:
 - (a) List each program for which it is approved, including the Classification of Instructional Programs (CIP) code, the number of contact or credit hours for the program, the length of the program, and the cost of the program;
 - (b) Provide a copy of:
 1. Its enrollment agreement noting each item that is required by KRS Chapter 165A;
 2.
 - a. Its most recent audited financial statement, if the school is accredited; or
 - b. Its most recent financial income statement certified by an independent accountant, if the school is not accredited;
 3. Its faculty and personnel handbook;
 4. Its current catalog, certified, true, and correct in content;
 5. Any advertising and marketing materials utilized by the school;
 6. Its occupational license and current fire inspection report;
 7. Its organizational chart for each school; and
 8. Its certificate of accreditation, if accredited; and
 - (c) Submit a Form PE-11, Form for Instructional Staff and Key Administrative Personnel.

Section 3. Permit Application for Agents. The permit application for each agent of a school licensed by the commission shall be the Form PE-19, Application for Permit to Act as an Agent, to seek initial approval with the commission, and the Form PE-20, Application for Renewal of Permit to Act as an Agent, to seek renewal with the commission annually.

Section 4. Transfer of Ownership of a School. The application for recording a transfer of ownership of a school licensed by the commission shall be the Form PE-21, Application to Transfer Ownership of a School.

Section 5. Change of Name of a School. The application for approval of a change of name of a school shall be the Form PE-22, Application to Change the Name of a School.

Section 6. Change of Location of a School. The application for approval of a change of location of a school shall be the Form PE-23, Application to Change the Location of a School.

Section 7. Application to Award an Associate Degree. The application to award an associate degree shall be the Form PE-10, Application to Award an Associate Degree.

Section 8. New Program. The application for approval of a new certificate or diploma program shall be the Form PE-14, Application for a New Program.

Section 9. Request for Transcript. The request for a transcript from a closed school shall be the Form PE-28, Request for Transcript.

Section 10. Revision of an Existing Certificate, Diploma, or Associate Degree Program.

(1)

(a) The school shall submit written notification detailing cumulative curriculum changes in contact hours, credit hours, courses offered, or program length of a currently approved program, totaling less than twenty-five (25) percent within a twelve (12) month period to the commission on a Form PE-12, Notification to Revise an Existing Program for Less Than 25%.

(b) A change in the name of an existing program that does not change the overall objective of the program shall not be considered in the computation of the cumulative curriculum changes.

(2)

(a) A school shall submit a Form PE-13, Application to Revise an Existing Program for 25% or More, to the commission if cumulative curriculum changes in contact hours, credit hours, courses offered, or program length of a currently approved program total twenty-five (25) percent or more within a twelve (12) month period.

(b) A change in the name of an existing program that changes the overall objective of the program shall be considered in the computation of the cumulative curriculum changes.

(3) A school shall notify the commission in writing of the program name changes, course name changes, or course description changes.

Section 11.

(1) Beginning in 2016 and every year thereafter, the school shall report its job placement rate per licensed program to the commission by January 15, and shall be the Form PE-39, Job Placement Reporting.

(2) The job placement rate in the field of study for the program shall be calculated as follows:

(a) Determine the total number of students who, during the immediately preceding July 1-June 30 period, graduated from the program;

(b) Of the total number determined under paragraph (a) of this subsection, determine the number of graduates who the school has documented as not available for

- employment due to health-related issues for individual or family member, death, active military duty, spouse or dependent of military personnel relocated due to military transfer, incarceration, visa restrictions, or continuing education at least half-time;
- (c) Subtract the total number of graduates not available for employment in paragraph (b) of this subsection from the total number of graduates under paragraph (a) of this subsection. This difference shall be the denominator for the equation;
 - (d) Of the total number determined under paragraph (c) of this subsection, determine the number of graduates who obtained job placement in a position in the field of study, in accordance with subsections (10) and (11) of this section. This shall be the numerator for the equation; and
 - (e) Divide the number of students determined under paragraph (d) of this subsection by the difference found in paragraph (c) of this subsection. This quotient converted to a percentage shall be the job placement rate.
- (3) For purposes of the job placement rate calculation, the school shall obtain the placement data by contacting employers or graduates to obtain the relevant information under the definitions in subsections (10) and (11) of this section. This contact and information shall be documented in writing, and shall include:
- (a) Name of the employer;
 - (b) Name of the graduate;
 - (c) Addresses and telephone numbers of graduate and employer;
 - (d) Title of employment;
 - (e) Duties of employment;
 - (f) Length of employment;
 - (g) Total hours worked per pay period;
 - (h) Name and title of the person(s) providing the information to the school;
 - (i) Name and title of the person(s) at the school who received and recorded the information;
 - (j) The date the information was provided; and
 - (k) Statement whether the school designated the graduate as placed in field or not.
- (4) If the school obtains the relevant information by telephone or personal contact, as opposed to a written document, the school shall send a confirming letter to the provider of the information setting forth in specific detail the information provided and the date it was provided. The school shall maintain a copy of the confirming letter and evidence it was sent.
- (5) All data and information used by a school to support the job placement rate, including any information that the graduate is not available for employment, shall be reliable, verifiable, and documented in writing.
- (6) Documentation supporting job placement rates for each applicable period for each program shall be maintained by the school in a retrievable and well-organized manner.
- (7) The job placement rates calculated by the school and the underlying documentation shall be subject to review and audit by the commission, and the school shall pay any costs for a review and audit. This may include requiring the school to:
- (a) Submit graduate data to the Kentucky Center for ~~[Education and Workforce]~~ Statistics to include a graduate's name, date of birth, Social Security number, gender, ethnicity, residency at point of graduation, and the CIP code and level of the program from which the student graduated; and
 - (b) Have a certified public accountant report on the school's calculation based on performing an attestation engagement in accordance with the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants (AICPA).
- (8) Another state agency shall not be prevented from investigating, reviewing, or auditing the underlying documentation and the rates provided. ~~[, pursuant to 791 KAR Chapter 1,~~

~~KRS Chapter 165A, or the Kentucky Consumer Protection Act, KRS 367.110-367.360.]~~

(9) A school that operates a program that is intended to and only provides continuing education courses to attendees for the purpose of the attendee maintaining current licensure shall so certify to the commission. The school shall also obtain written statements from all attendees affirming that the person's purpose in attending courses offered by the school is to maintain current licensure. The school's certification to the commission and underlying written affirmations shall suffice for the calculation of job placement rates for that continuing education program.

(10) The conditions described in this subsection shall be required to qualify as job placement in a position in field of study.

(a) Within 180 days of graduating from the program, the graduate shall have been employed for at least thirty (30) days with the employer in a full-time paid position in the field of study and the school shall document this employment.

(b) If a license or certification is required or generally requested for positions in the occupation, then within 180 days after the results are available from the first exam that the graduate would have been able to take after completing the program, the graduate shall have been employed for at least thirty (30) days with the employer in a full-time paid position in the field of study.

(c) In addition to paragraph (a) or (b) of this subsection, for a part-time position in the field of study to be considered job placement, the school shall possess a handwritten statement from the graduate at time of completion that part-time employment is the graduate's objective for employment including a general explanation for this objective.

(d) For self-employment to be considered as job placement, the school shall possess a handwritten statement from the graduate describing:

1. The work and demonstrating that it is in a position in the field of study;
2. That the graduate has received compensation in return for services provided in connection with the self-employment; and
3. That the graduate has completed at least 675 hours of work in connection with the graduate's self-employment, including time spent marketing the business, cultivating clients, negotiating contracts, and initiating or completing the work.

(11) The conditions described in this subsection shall be required to qualify as a position in field of study.

(a) The graduate's employment shall be a position included in the most recent National Center for Education Statistics and U.S. Bureau of Labor Statistics CIP-SOC Crosswalk for the program studied identified by the six (6) digit U.S. Department of Education classification of instructional program code, and the routine work shall predominantly require using the core skills and knowledge expected to have been taught in the program and the position shall require education beyond high school level.

(b) If graduates are continuing in prior employment, the graduate's prior employment position shall be reasonably related to the program training and the graduate shall attest in the graduate's handwriting when enrolling in the program and upon completion of the program, with reference to a specific written policy of the employer, to the benefit of the training as a catalyst for maintaining or advancing in a position.

(12) Failure to comply with this section shall be grounds for denial of a license, or suspension or revocation of an existing license.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form PE-15, "Application for Resident School", as provided in EdVera software version 2.1, edition 2021~~{Form PE-15, 2017}~~;

- (b) Form PE-16, "Application for Non-Resident School", as provided in EdVera software version 2.1, edition 2021~~[Form PE-16, 2017]~~;
 - (c) Form PE-17, "Application for License Renewal Resident School, as provided in EdVera software version 2.1, edition 2021~~[Form PE-17, 2017]~~;
 - (d) Form PE-18, "Application for License Renewal Non-Resident School", as provided in EdVera software version 2.1, edition 2021~~[Form PE-18, 2017]~~;
 - (e) Form PE-11, "Form for Instructional Staff and Key Administrative Personnel", as provided in EdVera software version 2.1, edition 2021~~[Form PE-11, 2017]~~;
 - (f) Form PE-19, "Application for Permit to Act as an Agent", as provided in EdVera software version 2.1, edition 2021~~[Form PE-19, 2017]~~;
 - (g) Form PE-20, "Application for Renewal of Permit to Act as an Agent", as provided in EdVera software version 2.1, edition 2021~~[Form PE-20, 2017]~~~~[;]~~;
 - (h) Form PE-21, "Application to Transfer Ownership of a School", as provided in EdVera software version 2.1, edition 2021~~[Form PE-21, 2017]~~;
 - (i) Form PE-22, "Application to Change the Name of a School", as provided in EdVera software version 2.1, edition 2021~~[Form PE-22, 2017]~~;
 - (j) Form PE-23, "Application to Change the Location of a School", as provided in EdVera software version 2.1, edition 2021~~[Form PE-23, 2017]~~;
 - (k) Form PE-10, "Application to Award an Associate Degree", as provided in EdVera software version 2.1, edition 2021~~[Form PE-10, 2017]~~;
 - (l) Form PE-14, "Application for a New Program", as provided in EdVera software version 2.1, edition 2021~~[Form PE-14, 2017]~~~~[;]~~;
 - (m) Form PE-28, "Request for Transcript", as provided in EdVera software version 2.1, edition 2021~~[Form PE-28, 2017]~~;
 - (n) Form PE-12, "Notification to Revise an Existing Program for Less Than 25%", as provided in EdVera software version 2.1, edition 2021~~[Form PE-12, 2017]~~;
 - (o) Form PE-13, "Application to Revise an Existing Program for 25% or More", as provided in EdVera software version 2.1, edition 2021~~[Form PE-13, 2017]~~; and
 - (p) Form PE-39, "Job Placement Reporting", as provided in EdVera software version 2.1, edition 2021~~[Form PE-39, 2017]~~.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Commission on Proprietary Education, 500 Mero Street~~[300 Sewer Boulevard]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MISTY N. EDWARDS, Executive Director
For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email kcpe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation (791 KAR 1:010) establishes the application requirements for proprietary schools.

(b) The necessity of this administrative regulation:

This administrative regulation (791 KAR 1:010) establishes the application requirements for proprietary schools and the utilization of an electronic data management system.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The statute requires the commission to promulgate regulations regarding applications, permits, and renewals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides guidance to proprietary schools. The electronic data management system will modernize the multiple levels of regulatory procedures and license processing.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment will facilitate the process of automating and streamlining regulatory and licensing processes through the use of an electronic data management system. This modernization will greatly improve responsiveness, and promote collaboration with stakeholders.

(b) The necessity of the amendment to this administrative regulation:

All proprietary schools will use the electronic data management system.

(c) How the amendment conforms to the content of the authorizing statutes:

The statute requires the commission to promulgate regulations regarding applications, permits, and renewals. The electronic data management system allows for a controlled exchange of information among stakeholders while maximizing operational efficiencies.

(d) How the amendment will assist in the effective administration of the statutes:

This administrative regulation provides guidelines to proprietary schools to assist in a more efficient application process, reduce operating expenses, and improve record management.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The Kentucky Commission on Proprietary Education, the 189 licensed proprietary schools, and any proprietary school requiring licensure pursuant to KRS 165A. (4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: All proprietary

schools will be required to begin utilizing the electronic data management system. (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendments. (c) As a result of compliance, what benefits will accrue to the entities: The electronic data management system will replace a paper based system, facilitate compliance, simply document version control and ultimately lead to a major efficiency.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

No answer provided.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No answer provided.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

No answer provided.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis:

There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied?

Tiering is not applied because there is no change to the fee or application structure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 165A, KRS 165A.340(6), 165A.350(3), 165A.360(2), 165A.400.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year?

There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years?

Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation:

There is no fiscal impact associated with this amendment.